

**SANTAMARIA AFFIDAVIT
EXHIBIT I
PLAINTIFF'S DEPOSITION
PP 66-73**

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2 difficulty that you were having with Paul
3 Santamaria at that time, that is the end of
4 January beginning of February 2006?

5 A There was a client, a long time
6 Commercial Bank of New York client, who was
7 overdrawn in a couple of accounts. And Paul
8 wanted us to close that account out. And he
9 felt that I had not obeyed his direction in
10 paying an overdraft item that came in, while I
11 felt that I had obeyed his direction because
12 when it came in there was cash already in the
13 account.

14 Q Now, which customer client are we
15 talking about?

16 A The client is Joseph Safdieh,
17 S-A-F-D-I-E-H.

18 Q What type of business was Joseph
19 Safdieh in, if you recall?

20 A He had a fairly high end clothing
21 licenses, and he was also a commercial real
22 estate investor.

23 Q Now, I take it from your answer to
24 my prior questions that there was some issue
25 that Paul Santamaria had with respect to the

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1 way Mr. Safdieh was operating his accounts,
2 and you said he was overdrawn in his accounts.

3 Is this the first time that these
4 accounts were overdrawn?

5 A No.

6 Q Over what period of time was there,
7 were there overdrafts in this account?

8 A Throughout the year. In fact,
9 Mr. Safdieh's accounts gave North Fork Bank
10 high fee income in prior years from
11 overdrafts.

12 Q Did he maintain large balances?

13 A What do you mean by large?

14 Q Did you consider him to have large
15 balances?

16 A Not particularly.

17 Q Now, you said there was an incident
18 whereby Mr. Santamaria believed that you had
19 not followed his instruction.

20 And what instruction did he believe
21 that he gave to you?

22 MS. GOODELL: Objection to the form
23 of the question.

24 A I'm sorry, what instructions do I
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2 believe he gave to me?

3 Q No, did he believe. You had a
4 dispute with Mr. Santamaria and you disagreed
5 with what he thought was the situation.

6 MS. GOODELL: Objection to the form
7 of the question.

8 Q What was the dispute about?

9 A The dispute was sometimes when an
10 account was overdrawn, a check was presented,
11 we could pay it anyway, agree to pay it and
12 then the client would cover it. They could
13 cover it later in the day or they might cover
14 it with money.

15 But Mr. Santamaria might bring
16 money in earlier before we even checked the
17 overdraft list. Mr. Santamaria said that he
18 didn't, at least What I understood later is
19 that he didn't want us to pay any overdraft
20 even if it was not overdrawn at the time we
21 checked it.

22 Q Well, I guess you'll have to
23 explain to me a little bit more about the
24 banking system. I take it that Mr. Santamaria
25 instructed no payments on overdrafts; is that

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2 a fair statement, on this account, he didn't
3 want overdrafts to be paid?

4 A It wasn't in those words, but if
5 the account was overdrawn, the way I
6 understood it, if the account was overdrawn
7 not to pay it.

8 Q Okay, because when an instrument
9 comes in and there isn't sufficient money, you
10 can either pay it or not pay it.

11 And he said don't pay, so what
12 happened here?

13 A We went into our overdraft list and
14 we, the account, while it was showing that it
15 hadn't had money at midnight, they had put
16 cash in it upon the opening of the bank. So
17 by the time we got there, the account was not
18 overdrawn anymore.

19 Q So the check came in, if I
20 understand what you're telling me, the check
21 came in the night before?

22 A Yes.

23 Q And there were insufficient funds?

24 A Correct.

25 Q So is there a list generated then,

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2 an overdraft list?

3 A Yes.

4 Q That is generated?

5 A Yes.

6 Q Who generates that?

7 A It's a computer list generated by
8 the bank.

9 Q Would it be fair to say then upon
10 the opening of business each day, someone in
11 the branch looks at that?

12 A Yes.

13 Q So upon the opening of business,
14 was there money in the account or not; that's
15 what I'm not understanding?

16 A When the doors opened, the
17 controller came and deposited cash. Upon us
18 checking that overdraft list, it was not
19 overdrawn anymore.

20 Q When the check hit the night before
21 it was overdrawn, and then the next day at
22 some point early in the day, somebody from the
23 company came in and covered?

24 A Before we checked the overdraft
25 list, yes.

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2 Q Before you checked the list?

3 A Yes.

4 Q What would the list at the opening
5 of business show, overdrawn?

6 A The list would show overdrawn, yes.

7 Q When you came in that day, did you
8 check the list?

9 A We did check it, yes. I checked it
10 and my assistant manager checked it.

11 Q And this account showed overdrawn?

12 A The account was not overdrawn then.

13 Q But the list showed it was
14 overdrawn?

15 A Yes.

16 Q But you had knowledge of your own
17 that subsequent thereto someone came in and
18 covered?

19 MS. GOODELL: Objection to the form
20 of the question.

21 Q Is that what happened, someone came
22 in from the company?

23 A Yes.

24 Q I take it then from your comments
25 that Mr. Santamaria was unhappy with the fact

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that you paid that account, that check?

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MS. GOODELL: Objection to the form

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of the question.

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Q Is that a fair statement?

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MS. GOODELL: Objection to the form

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of the question.

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A Yes.

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Q What exactly did he say to you, in

10

words or substance, about the payment of that

11

check?

12

A He said that he told me not to pay

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an account that was overdrawn.

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Q And how was the matter left if not

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resolved?

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A I told him I misunderstood because

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that morning they covered it with cash. It

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was not overdrawn anymore. I told him going

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forward I wouldn't pay it.

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Q After the incident with that

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account, did the bank take any steps to close

22

out that relationship?

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A Yes, we were in process of closing

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that account at that time. We sent them a

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letter and gave them a certain amount of time

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to make other arrangements for banking.

Q Did they do so?

A Yes.

Q When did the relationship exit the bank?

A I don't remember. It was a couple of weeks I gave them.

Q Did there come a time when you had any other difficulties with Paul Santamaria after the difficulty you just described in late January early February 2006 involving the Safdieh relationship?

A Any difficulties with Safdieh or just any other difficulties?

Q No, with Paul Santamaria. I asked you the question and you said, yes, we had this Safdieh thing.

My next question is, well, was there anything else?

A Yes.

Q What was the next thing that happened?

A To the best of my recollection, the next thing was Paul Santamaria questioning